

FIRST REGULAR SESSION

HOUSE BILL NO. 117

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DUGGER.

0321H.03I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 116.040, 116.080, 116.090, 116.332, and 116.334, RSMo, and to enact in lieu thereof eight new sections relating to initiative and referendum petitions, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 116.040, 116.080, 116.090, 116.332, and 116.334, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 116.040, 116.080, 116.090, 116.115, 116.153, 116.332, 116.333, and 116.334, to read as follows:

116.040. The following shall be substantially the form of each page of each petition for any law or amendment to the Constitution of the state of Missouri proposed by the initiative:

County

Page No.

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter. INITIATIVE PETITION To the Honorable, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and County (or city of St. Louis), respectfully order that the following proposed law (or amendment to the constitution) shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the day of, and each for himself

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 or herself says: I have personally signed this petition; I am a registered voter of the state of
 17 Missouri and County (or city of St. Louis); my registered voting address and the name of
 18 the city, town or village in which I live are correctly written after my name. **Ballot title goes**
 19 **here.** Circulator's Affidavit State Of Missouri, County Of I,
 20, being first duly sworn, say (print or type names of signers)

21

22 REGISTERED VOTING

23 NAME	DATE	ADDRESS	ZIP	CONGR.	NAME
24 (Signature)	SIGNED	(Street)(City,	CODE	DIST.	(Printed
25		Town or Village)			or Typed)

26

27 _____ (Here follow numbered lines for signers)

28

29 _____ signed this page of the foregoing petition, and each of them signed his or her name thereto
 30 in my presence; I believe that each has stated his or her name, registered voting address and city,
 31 town or village correctly, and that each signer is a registered voter of the state of Missouri and
 32 County.

33 **I am at least 18 years of age. I do do not (check one) expect to be paid for**
 34 **circulating this petition. If paid, list the payer**

35

36 Signature of Affiant

37 (Person obtaining

38 signatures)

39 **(Printed Name of Affiant)**

40

41 Address of Affiant Subscribed and sworn to before me this day of, A.D.

42

43 Signature of Notary

44 Address of Notary Notary Public (Seal) My commission expires If
 45 this form is followed substantially and the requirements of section 116.050 and section 116.080
 46 are met, it shall be sufficient, disregarding clerical and merely technical errors.

116.080. 1. Each petition circulator shall be at least eighteen years of age and registered
 2 with the secretary of state. **No person shall qualify as a petition circulator who has been**
 3 **convicted of, found guilty of, or pled guilty to an offense involving forgery under the laws**
 4 **of this state or an offense under the laws of any other jurisdiction if that offense would be**
 5 **considered forgery under the laws of this state.** Signatures collected by any circulator who

6 has not registered with the secretary of state pursuant to this chapter on or before 5:00 p.m. on
7 the final day for filing petitions with the secretary of state shall not be counted.

8 2. Each petition circulator shall supply the following information to the secretary of
9 state's office:

10 (1) Name of petition;

11 (2) Name of circulator;

12 (3) Residential address, including street number, city, state and zip code;

13 (4) Mailing address, if different;

14 (5) Have you been or do you expect to be paid for soliciting signatures for this petition?

15 ☐ YES ☐ NO;

16 (6) If the answer to subdivision (5) is yes, then identify the payor;

17 (7) Signature of circulator.

18 3. The circulator information required in subsection 2 of this section shall be submitted
19 to the secretary of state's office with the following oath and affirmation:

20 I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL
21 STATEMENTS MADE BY ME ARE TRUE AND CORRECT **AND THAT I HAVE NEVER**
22 **BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE**
23 **INVOLVING FORGERY.**

24 4. Each petition circulator shall subscribe and swear to the proper affidavit on each
25 petition page such circulator submits before a notary public commissioned in Missouri. When
26 notarizing a circulator's signature, a notary public shall sign his or her official signature and affix
27 his or her official seal to the affidavit only if the circulator personally appears before the notary
28 and subscribes and swears to the affidavit in his or her presence.

29 5. Any circulator who falsely swears to a circulator's affidavit knowing it to be false is
30 guilty of a class A misdemeanor punishable, notwithstanding the provisions of section 560.021
31 to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not
32 to exceed ten thousand dollars or both.

116.090. 1. Any person who **knowingly** signs any name other than his own to any
2 petition[, or] **with the intent to alter the outcome shall, upon conviction thereof, be guilty**
3 **of a class one election offense, as defined in section 115.631.**

4 2. **Any person** who knowingly signs his or her name more than once for the same
5 measure for the same election, or who knows he or she is not at the time of signing or circulating
6 the same a Missouri registered voter and a resident of this state, shall, upon conviction thereof,
7 be guilty of a class A misdemeanor punishable, notwithstanding the provisions of section
8 560.021 to the contrary, for a term of imprisonment not to exceed one year in the county jail or
9 a fine not to exceed ten thousand dollars or both.

10 [2.] 3. Any person who knowingly accepts or offers money or anything of value to
11 another person in exchange for a signature on a petition is guilty of a class A misdemeanor
12 punishable, notwithstanding the provisions of section [560.021] **560.016** to the contrary, for a
13 term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten
14 thousand dollars or both.

15 **4. (1) A person commits the crime of intentional misrepresentation of a petition if**
16 **the person knowingly and fraudulently gathers signatures for a petition under this chapter.**
17 **As used in this subsection, “fraudulently gathers signatures” includes:**

18 **(a) Causing a voter to sign a petition other than the one the voter intended to sign;**
19 **or**

20 **(b) Forging or falsifying signatures.**

21 **(2) Notwithstanding provisions of section 560.016 to the contrary, intentional**
22 **misrepresentation of a petition is a misdemeanor punishable by a term of imprisonment**
23 **not to exceed one year in the county jail, by a fine not to exceed ten thousand dollars, or**
24 **both such imprisonment and fine.**

25 **5. (1) A person commits the crime of malicious obstruction of the signing of a**
26 **petition if the person maliciously intimidates, obstructs, or otherwise prevents a voter from**
27 **signing a petition under this chapter, or if the person attempts to intimidate, obstruct, or**
28 **otherwise prevent a voter from signing a petition under this chapter.**

29 **(2) Notwithstanding provisions of section 560.016 to the contrary, malicious**
30 **obstruction of the signing of a petition is a misdemeanor punishable by a term of**
31 **imprisonment not to exceed one year in county jail, or by a fine not to exceed ten thousand**
32 **dollars, or both such imprisonment and fine.**

33 **(3) No reasonable effort to inform or educate a potential signer of a petition shall**
34 **be construed to be malicious obstruction of the signing of a petition under this section.**

116.115. Any person who submits a sample sheet to or files an initiative petition
2 **with the secretary of state may withdraw the petition upon written notice to the secretary**
3 **of state. If such notice is submitted to the secretary of state, the proposed petition shall no**
4 **longer be circulated by any person, committee, or other entity. The secretary of state shall**
5 **vacate the certification of the official ballot title within three days of receiving notice of**
6 **withdrawal.**

116.153. Within thirty days of issuing certification that the petition contains a
2 **sufficient number of valid signatures pursuant to section 116.150, the joint committee on**
3 **legislative research shall hold a public hearing in Jefferson City to take public comment**
4 **concerning the proposed measure. Such hearing shall be a public meeting under chapter**
5 **610.**

116.332. 1. Before a constitutional amendment petition, a statutory initiative petition, or a referendum petition may be circulated for signatures, **with the exception of sponsoring signatures under section 116.333**, a sample sheet must be submitted to the secretary of state in the form in which it will be circulated. When a person submits a sample sheet of a petition he or she shall designate to the secretary of state the name and address of the person to whom any notices shall be sent pursuant to sections 116.140 and 116.180 **and submit a copy of the filed statement of committee organization required under subsection 5 of section 130.021 showing the date the statement was filed**. The secretary of state shall refer a copy of the petition sheet to the attorney general for his approval and to the state auditor for purposes of preparing a fiscal note and fiscal note summary. The secretary of state and attorney general must each review the petition for sufficiency as to form and approve or reject the form of the petition, stating the reasons for rejection, if any.

2. **Within two days of receipt of any such sample sheet, the secretary of state shall conspicuously post the text of the proposed measure on its website, a disclaimer stating that such text may not constitute the full and correct text as required under section 116.050, and the name of the person or organization submitting the sample sheet. The posting shall be removed within three days of either the withdrawal of a petition under section 116.115 or when a petition is rejected for any reason. The secretary of state's failure to comply with this section shall be considered a violation under subsection 3 of section 610.027.**

3. Upon receipt of a petition from the office of the secretary of state, the attorney general shall examine the petition as to form. If the petition is rejected as to form, the attorney general shall forward his or her comments to the secretary of state within ten days after receipt of the petition by the attorney general. If the petition is approved as to form, the attorney general shall forward his or her approval as to form to the secretary of state within ten days after receipt of the petition by the attorney general.

[3.] 4. The secretary of state shall review the comments and statements of the attorney general as to form and make a final decision as to the approval or rejection of the form of the petition. The secretary of state shall send written notice to the person who submitted the petition sheet of the approval within [thirty] **fifteen** days after submission of the petition sheet. The secretary of state shall send written notice if the petition has been rejected, together with reasons for rejection, within [thirty] **fifteen** days after submission of the petition sheet.

116.333. 1. **Persons submitting a sample sheet under section 116.332 shall also submit, with the sample sheet, at least one thousand but no more than two thousand sponsoring signatures of registered voters of the state in support of the initiative. If such person fails to submit sponsoring signatures pursuant to the provisions of this section, the secretary of state shall send notice that the petition has been rejected.**

6 **2. For the purposes of this section:**

7 **(1) Sponsoring signatures shall be gathered and submitted on pages in the form**
8 **that shall be submitted for approval by the secretary of state under section 116.040 and**
9 **116.332, except that each signature page shall contain the following statement:**

10

11 **We, the undersigned, registered voters of the state of Missouri and
12 County (or city of St. Louis), respectfully request that the following
13 proposed law (or amendment to the constitution) shall be submitted to the
14 Secretary of State for certification of an Official Ballot Title, and each for
15 himself or herself says: I have personally signed this petition; I am a
16 registered voter of the state of Missouri and County (or city of St.
17 Louis); my registered voting address and the name of the city, town, or
18 village in which I live are correctly written after my name.**

19

20 **(2) Each petition page shall contain sponsoring signatures of voters from only one**
21 **county, which shall be designated in the upper right-hand corner of the page. All pages**
22 **shall be submitted at one time and shall be in order and numbered sequentially by county.**
23 **Sponsoring signatures on pages that do not comply with these requirements shall not be**
24 **counted as valid.**

25 **(3) Each person gathering sponsoring signatures shall meet the requirements of**
26 **section 116.080, except that signatures collected by any circulator who has not registered**
27 **with the secretary of state pursuant to section 116.080 on or before 5:00 p.m. on the day**
28 **the sponsoring signatures are submitted to the secretary of state shall not be counted.**

29 **(4) The sponsoring signatures required by this section may be obtained at any time**
30 **after the deadline for filing of petition in article III, section 50 of the Constitution of**
31 **Missouri for the general election immediately preceding the general election for which the**
32 **petition pages with the sponsoring signatures are seeking to place the proposed initiative.**
33 **No such sponsoring signatures may be collected more than two years and six months prior**
34 **to any general election for which the initiative petition may be voted upon by the electors**
35 **of the state.**

36 **3. Within five days of receipt of sponsoring signature pages under this section, the**
37 **secretary of state may send copies of the pages to election authorities to verify that the**
38 **persons whose names are listed as sponsoring signers to the petition are registered voters.**
39 **Such verification may either be of each signature or by random sampling as provided in**
40 **section 116.120, as the secretary shall direct. Each election authority shall check the**
41 **signatures against voter registration records in the election authority's jurisdiction**

42 pursuant to the rules adopted by the secretary of state under subsection 5 of section
43 116.130.

44 4. Such verification shall be completed and certified to the secretary of state not
45 later than fifteen days from the date the election authority receives the sponsoring
46 signature pages.

47 5. The only challenge which may be made to a sample sheet of an initiative petition
48 prior to the certification of the official ballot title, as provided for in Section 116.190, is an
49 action regarding the validity of the sponsoring signatures required by this section. Such
50 a challenge shall be fully and finally adjudicated by all courts in no less than forty-five
51 days from the date of filing or such action shall be extinguished. All costs, including
52 attorney fees of all defending parties, shall be assessed against the party bringing such
53 action if such action is extinguished or dismissed.

116.334. 1. If the petition form is approved[,] and at least one thousand sponsoring
2 signatures are verified as registered voters, within three days of the receipt of such
3 certification, the secretary of state shall notify the person who submitted the sponsoring
4 signatures, make a copy of the sample petition available on the secretary of state's website,
5 and refer a copy of the sample petition to the state auditor for purposes of preparing a
6 fiscal note summary. For a period of fifteen days after the petition is initially certified, the
7 secretary of state shall accept public comments regarding the proposed measure and
8 provide copies of such comments upon request. Within [ten] twenty-three days of receipt
9 of such initial certification, the secretary of state shall prepare and transmit to the attorney
10 general a summary statement of the measure which shall be a concise statement not exceeding
11 one hundred words. This statement shall be in the form of a question using language neither
12 intentionally argumentative nor likely to create prejudice either for or against the proposed
13 measure. The attorney general shall within ten days approve the legal content and form of the
14 proposed statement.

15 2. [Signatures obtained prior to the date the official ballot title is certified by the
16 secretary of state shall not be counted] If the election authority certifies that fewer than one
17 thousand sponsoring signatures have been verified as registered voters, within three days
18 of receipt of the certification from the election authority, the secretary of state shall notify
19 the person who submitted the signatures that the petition has been rejected.

Section B. The provisions of this act are severable. If any provision of this act is found
2 by a court of competent jurisdiction to be unconstitutional, the remaining provisions are valid
3 except to the extent that the court finds the valid provisions, standing alone, are incomplete and
4 are incapable of being executed in accordance with the will of the people.

✓